

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

AMENDED IN ASSEMBLY MARCH 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 24**

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**Introduced by Assembly Member Nazarian**

December 1, 2014

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An act to amend Section 5374 of, and to add Section 5444 to, the Public Utilities Code, and to amend Section 1808.1 of the Vehicle Code, relating to transportation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 24, as amended, Nazarian. Transportation network companies: public safety requirements.

The Passenger Charter-party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission, and imposes various other requirements. Existing law requires, as a condition to obtaining a certificate or permit, that the applicant, among other things, participate in a program to regularly check the driving records of all vehicle operators and provide a mandatory controlled substance and alcohol testing certification program. A violation of the act is generally a misdemeanor. Existing law defines a transportation network company as an organization, whether a corporation, partnership, sole proprietor, or other form, operating in California that provides prearranged

transportation services for compensation using an online-enabled platform to connect passengers with drivers using their personal vehicles.

This bill would prohibit the commission from issuing or renewing a permit or certificate to a charter-party carrier of passengers unless the applicant, in addition to existing requirements, participates in the Department of Motor ~~Vehicles~~ *Vehicles*' pull-notice system. This bill would specifically require a transportation network company to comply with this provision and to provide for a mandatory controlled substance and alcohol testing certification program. The bill would also require a transportation network company to register any vehicle used in the transportation of passengers for compensation with the commission and display an identifying ~~decal issued~~ *symbol prescribed* by the commission on the vehicle.

The bill would require that drivers hired or initially retained by a transportation network company on or after January 1, 2016, be subject to mandatory drug and alcohol testing prior to employment or retention and that drivers hired or initially retained before January 1, 2016, complete a drug and alcohol test before January 1, 2017.

Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 5374 of the Public Utilities Code is
- 2 amended to read:
- 3 5374. (a) (1) Before a permit or certificate is issued or
- 4 renewed, the commission shall require the applicant to establish
- 5 reasonable fitness and financial responsibility to initiate and
- 6 conduct or continue to conduct the proposed or existing
- 7 transportation services. The commission shall not issue or renew
- 8 a permit or certificate pursuant to this chapter unless the applicant
- 9 meets all of the following requirements:

1 (A) It is financially and organizationally capable of conducting  
2 an operation that complies with the rules and regulations of the  
3 Department of the California Highway Patrol governing highway  
4 safety.

5 (B) It is committed to observing the hours of service regulations  
6 of state and, where applicable, federal law, for all persons, whether  
7 employees or subcarriers, operating vehicles in transportation for  
8 compensation under the certificate.

9 (C) It has a preventive maintenance program in effect for its  
10 vehicles used in transportation for compensation that conforms to  
11 regulations of the Department of the California Highway Patrol  
12 in Title 13 of the California Code of Regulations.

13 (D) It participates in the pull-notice system pursuant to Section  
14 1808.1 of the Vehicle Code to regularly check the driving records  
15 of all persons, whether employees or subcarriers, operating vehicles  
16 used in transportation for compensation.

17 (E) It has a safety education and training program in effect for  
18 all employees or subcarriers operating vehicles used in  
19 transportation for compensation.

20 (F) It will maintain its vehicles used in transportation for  
21 compensation in a safe operating condition and in compliance with  
22 the Vehicle Code and with regulations contained in Title 13 of the  
23 California Code of Regulations relative to motor vehicle safety.

24 (G) It has filed with the commission the certificate of workers'  
25 compensation insurance coverage or statement required by Section  
26 5378.1.

27 (H) It has provided the commission an address of an office or  
28 terminal where documents supporting the factual matters specified  
29 in the showing required by this subdivision may be inspected by  
30 the commission and the Department of the California Highway  
31 Patrol.

32 (I) It provides for a mandatory controlled substance and alcohol  
33 testing certification program as adopted by the commission  
34 pursuant to Section 1032.1.

35 (J) Subparagraphs (C), (F), and (H) do not apply to a  
36 charter-party carrier of passengers engaged in the provision of a  
37 hired driver service when a rented motor vehicle is being operated  
38 by the hired driver.

39 (2) With respect to subparagraphs (B) and (F) of paragraph (1),  
40 the commission may base a finding on a certification by the

1 commission that an applicant has filed, with the commission, a  
2 sworn declaration of ability to comply and intent to comply.

3 (3) The commission may require, as a precondition to the  
4 issuance of a permit or certificate, the procurement of a  
5 performance bond sufficient to facilitate the collection of fines,  
6 penalties, and restitution related to enforcement actions that can  
7 be taken against the applicant.

8 (b) In addition to the requirements in subdivision (a),  
9 charter-party carriers shall meet all other state and, where  
10 applicable, federal regulations as prescribed.

11 (c) The commission may delegate to its executive director or  
12 that executive director's designee the authority to issue, renew, or  
13 authorize the transfer of, charter-party carrier permits or certificates  
14 and to make the findings specified in subdivision (a) that are  
15 necessary to that delegated authority.

16 SEC. 2. Section 5444 is added to the Public Utilities Code, to  
17 read:

18 5444. (a) A transportation network company shall do all of  
19 the following:

20 (1) Participate in a pull-notice system pursuant to Section 1808.1  
21 of the Vehicle Code to regularly check the driving records of all  
22 participating drivers.

23 (2) Provide for a mandatory controlled substance and alcohol  
24 testing certification program as adopted by the commission  
25 pursuant to Section 1032.1.

26 (3) Register any vehicle used in the transportation of passengers  
27 for compensation with the commission and display on the vehicle  
28 ~~a suitable decal with~~ an identifying symbol ~~issued~~ *prescribed* by  
29 ~~the commission.~~ *commission pursuant to Section 5385.*

30 (b) Drivers hired or initially retained by a transportation network  
31 company on or after January 1, 2016, shall be subject to mandatory  
32 drug and alcohol testing prior to employment or retention. Drivers  
33 hired or initially retained before January 1, 2016, shall complete  
34 a drug and alcohol test before January 1, 2017.

35 SEC. 3. Section 1808.1 of the Vehicle Code is amended to  
36 read:

37 1808.1. (a) The prospective employer of a driver who drives  
38 a vehicle specified in subdivision (k) shall obtain a report showing  
39 the driver's current public record as recorded by the department.  
40 For purposes of this subdivision, a report is current if it was issued

1 less than 30 days prior to the date the employer employs the driver.  
2 The report shall be reviewed, signed, and dated by the employer  
3 and maintained at the employer's place of business until receipt  
4 of the pull-notice system report pursuant to subdivisions (b) and  
5 (c). These reports shall be presented upon request to an authorized  
6 representative of the Department of the California Highway Patrol  
7 during regular business hours.

8 (b) The employer of a driver who drives a vehicle specified in  
9 subdivision (k) shall participate in a pull-notice system, which is  
10 a process for the purpose of providing the employer with a report  
11 showing the driver's current public record as recorded by the  
12 department, and any subsequent convictions, failures to appear,  
13 accidents, driver's license suspensions, driver's license revocations,  
14 or any other actions taken against the driving privilege or  
15 certificate, added to the driver's record while the employer's  
16 notification request remains valid and uncanceled. As used in this  
17 section, participation in the pull-notice system means obtaining a  
18 requester code and enrolling all employed drivers who drive a  
19 vehicle specified in subdivision (k) under that requester code.

20 (c) The employer of a driver of a vehicle specified in subdivision  
21 (k) shall, additionally, obtain a periodic report from the department  
22 at least every 12 months. The employer shall verify that each  
23 employee's driver's license has not been suspended or revoked,  
24 the employee's traffic violation point count, and whether the  
25 employee has been convicted of a violation of Section 23152 or  
26 23153. The report shall be signed and dated by the employer and  
27 maintained at the employer's principal place of business. The  
28 report shall be presented upon demand to an authorized  
29 representative of the Department of the California Highway Patrol  
30 during regular business hours.

31 (d) Upon the termination of a driver's employment, the employer  
32 shall notify the department to discontinue the driver's enrollment  
33 in the pull-notice system.

34 (e) For the purposes of the pull-notice system and periodic report  
35 process required by subdivisions (b) and (c), an owner, other than  
36 an owner-operator as defined in Section 34624, and an employer  
37 who drives a vehicle described in subdivision (k) shall be enrolled  
38 as if he or she were an employee. A family member and a volunteer  
39 driver who drives a vehicle described in subdivision (k) shall also  
40 be enrolled as if he or she were an employee.

1 (f) An employer who, after receiving a driving record pursuant  
2 to this section, employs or continues to employ as a driver a person  
3 against whom a disqualifying action has been taken regarding his  
4 or her driving privilege or required driver's certificate, is guilty of  
5 a public offense, and upon conviction thereof, shall be punished  
6 by confinement in a county jail for not more than six months, by  
7 a fine of not more than one thousand dollars (\$1,000), or by both  
8 that confinement and fine.

9 (g) As part of its inspection of bus maintenance facilities and  
10 terminals required at least once every 13 months pursuant to  
11 subdivision (c) of Section 34501, the Department of the California  
12 Highway Patrol shall determine whether each transit operator, as  
13 defined in Section 99210 of the Public Utilities Code, is then in  
14 compliance with this section and Section 12804.6, and shall certify  
15 each operator found to be in compliance. Funds shall not be  
16 allocated pursuant to Chapter 4 (commencing with Section 99200)  
17 of Part 11 of Division 10 of the Public Utilities Code to a transit  
18 operator that the Department of the California Highway Patrol has  
19 not certified pursuant to this section.

20 (h) (1) A request to participate in the pull-notice system  
21 established by this section shall be accompanied by a fee  
22 determined by the department to be sufficient to defray the entire  
23 actual cost to the department for the notification service. For the  
24 receipt of subsequent reports, the employer shall also be charged  
25 a fee established by the department pursuant to Section 1811. An  
26 employer who qualifies pursuant to Section 1812 shall be exempt  
27 from any fee required pursuant to this section. Failure to pay the  
28 fee shall result in automatic cancellation of the employer's  
29 participation in the notification services.

30 (2) A regularly organized fire department, having official  
31 recognition of the city, county, city and county, or district in which  
32 the department is located, shall participate in the pull-notice  
33 program and shall not be subject to the fee established pursuant  
34 to this subdivision.

35 (3) The Board of Pilot Commissioners for Monterey Bay and  
36 the Bays of San Francisco, San Pablo, and Suisun, and its port  
37 agent shall participate in the pull-notice system established by this  
38 section, subject to Section 1178.5 of the Harbors and Navigation  
39 Code, and shall not be subject to the fees established pursuant to  
40 this subdivision.

1 (i) The department, as soon as feasible, may establish an  
2 automatic procedure to provide the periodic reports to an employer  
3 by mail or via an electronic delivery method, as required by  
4 subdivision (c), on a regular basis without the need for individual  
5 requests.

6 (j) (1) The employer of a driver who is employed as a casual  
7 driver is not required to enter that driver's name in the pull-notice  
8 system, as otherwise required by subdivision (a). However, the  
9 employer of a casual driver shall be in possession of a report of  
10 the driver's current public record as recorded by the department,  
11 prior to allowing a casual driver to drive a vehicle specified in  
12 subdivision (k). A report is current if it was issued less than six  
13 months prior to the date the employer employs the driver.

14 (2) For the purposes of this subdivision, a driver is employed  
15 as a casual driver when the employer has employed the driver less  
16 than 30 days during the preceding six months. "Casual driver"  
17 does not include a driver who operates a vehicle that requires a  
18 passenger transportation endorsement.

19 (k) This section applies to a vehicle for the operation of which  
20 the driver is required to have a class A or class B driver's license,  
21 a class C license with a hazardous materials endorsement, a class  
22 C license issued pursuant to Section 12814.7, or a certificate issued  
23 pursuant to Section 12517, 12519, 12520, 12523, 12523.5, or  
24 12527, or a passenger vehicle having a seating capacity of not  
25 more than 10 persons, including the driver, operated for  
26 compensation by a charter-party carrier of passengers,  
27 transportation network company, or passenger stage corporation  
28 pursuant to a certificate of public convenience and necessity or a  
29 permit issued by the Public Utilities Commission.

30 (l) (1) For purposes of this section, the term "employer" or  
31 "prospective employer" includes a transportation network company  
32 whose permit or certificate, including any renewal of that permit  
33 or certificate, is subject to the requirements of Article 7  
34 (commencing with Section 5430) of Chapter 8 of Division 2 of  
35 the Public Utilities Code.

36 (2) This section shall not be construed to change the definition  
37 of "employer," "employee," or "independent contractor" for any  
38 other purpose.

39 (m) A motor carrier who contracts with a person to drive a  
40 vehicle described in subdivision (k) that is owned by, or leased to,

1 that motor carrier, shall be subject to subdivisions (a), (b), (c), (d),  
2 (f), (j), (k), and (l) and the employer obligations in those  
3 subdivisions.

4 (n) Reports issued pursuant to this section, but only those for a  
5 driver of a taxicab engaged in transportation services as described  
6 in subdivision (a) of Section 53075.5 of the Government Code,  
7 shall be presented upon request, during regular business hours, to  
8 an authorized representative of the administrative agency  
9 responsible for issuing permits to taxicab transportation services  
10 pursuant to Section 53075.5 of the Government Code.

11 SEC. 4. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.